

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Robin Foley, et al.

v.

Civil No. 10-cv-00335-JL

Town of Lee, et al.

ORDER ON JURY SELECTION

Jury selection in the above-captioned matter will be conducted under the "struck" method. See 28 U.S.C. § 1861 et seq.; Fed. R. Civ. P. 47, 48, 49; L.R. 47.2, 47.3, 48. It will be conducted as follows:

1. **Size of jury: Eight jurors (and no alternates)**
will be seated. Barring excusal pursuant to Rule 47(c), all jurors shall participate in the verdict. The verdict shall be unanimous and no verdict shall be taken from the jury if its number is reduced to fewer than **six** members unless the parties agree otherwise subject to court approval.
2. **Standard voir dire:** Once the jury venire is seated in the courtroom, the court will briefly describe the case, have counsel introduce themselves and their clients, read the names of potential witnesses, and ask the court's "standard" voir dire questions as may be supplemented upon request of the parties.
3. **Random selection and initial excusals for cause:**
During the court's voir dire, the deputy clerk will be randomly drawing 17 jurors. Upon completion of the voir dire, the deputy clerk will announce the names of all 17 jurors who will come in order and take a seat in or near the jury box. The jury clerk will be checking with each juror to see who needs to speak with the judge or who answered "yes" to any of the questions. The

first juror with a question will approach side bar for examination by the court, counsel, and potential challenge for cause by counsel. If the juror is found qualified (that is, not excused for cause), the juror will resume their seat in the jury box. If the juror is excused for cause, the deputy clerk will then draw another name from the box. That juror will be asked whether or not they need to speak with the judge. If so, that juror will approach side bar. If not, that juror will fill the empty seat in the jury box. This process will continue until there are 17 qualified jurors.

4. **Attorney-conducted voir dire:** Counsel have declined to conduct voir dire.
5. **Peremptory challenges:** After all requests for excusal for cause have been addressed, counsel may then exercise their peremptory challenges against the qualified panel. The plaintiffs shall be entitled to **three** peremptory challenges among them, defendants Flanagan and Huppe shall be entitled to **three** peremptory challenges between them, and defendant Tenaglia shall be entitled to **three** peremptory challenges. See 28 U.S.C. § 1870.
6. After the peremptory challenges, the Deputy Clerk will empanel the necessary number of jurors, **in this case, eight**, and will excuse the remainder of the jury venire.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: April 30, 2012

cc: Kimberly A. Zizza, Esq.
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